

WT 13-238

**FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554****ACCEPTED/FILED**

June 25, 2013

SEP 25 2013

Federal Communications Commission  
Office of the SecretaryName  
Title  
Tribe Name  
Address  
City, State

RE: Upcoming FCC Section 106 Initiatives; Positive Train Control

Dear [Title and Name]:

On behalf of the Federal Communications Commission's (FCC) Infrastructure Team, we extend greetings to you. The FCC's Infrastructure Team is comprised of senior staff and managers from Bureaus and Offices throughout the FCC, and includes the FCC's Office of Native Affairs and Policy (ONAP). In coordination with ONAP, the Infrastructure Team is reaching out to the Tribal Historic Preservation Officers and cultural preservation officials of federally-recognized American Indian Tribes and Alaska Native Villages, on behalf of their Tribal Nations. Our purpose is to inform you directly and invite dialogue with your office and your Tribal Nation regarding four initiatives relating to the process for considering effects on Tribal traditional cultural properties under Section 106 of the National Historic Preservation Act (NHPA). ONAP has separately informed your Tribal leadership about a number of priorities for Tribal Nations on which the FCC is currently engaged, including those contained in this letter, and a copy of this letter is attached to ONAP's separate correspondence. In coordination with you and your Tribal Nation, we wish to be informed by your values on these issues as we are developing ours.

The most important of these Section 106 initiatives is positive train control. It is important to note that we are in the early stages of developing solutions in all of these four areas, and we intend to move forward deliberately and appropriately. Our intent is that this early engagement will lead, in a very timely and appropriate fashion, to productive government-to-government consultation on shared solutions that meet the obligations of the FCC to Tribal Nations and the needs of Tribal Nations, in compliance with federal law and policy. In particular, regarding our top priority in the Section 106 area, within the next few weeks, we expect to send you a scoping document regarding Section 106 review for positive train control, a Congressionally-mandated communications program designed to save lives and enhance safety and security along the nation's railroad lines by the use of wireless communications technology. By this letter, we invite you to share your values and initial thoughts regarding these upcoming initiatives. We also invite your suggestions as to how the FCC can most efficiently engage Tribal Nations on these matters in the current atmosphere of severe budget constraints, consistent with our government-to-government relationship and trust responsibility.

The FCC's current process for ensuring the participation of Tribal Nations in Section 106 review has been little changed in almost 10 years. The pillars of this process include the Tower Construction Notification System (TCNS) and relevant requirements imposed on our licensees and applicants under our Nationwide Programmatic Agreement (NPA). As technologies and public needs have evolved, however, situations have increasingly arisen to which the existing process is not fully suited. Accordingly, our regulated entities and our preservation partners have requested that we consider options to increase the efficiency of the Section 106 process in these situations, including program alternatives under Section 800.14 of the Advisory Council on Historic Preservation (ACHP) rules (36 CFR 800.14). Our goal in each of these instances is to increase efficiency and reduce burdens on all parties while preserving and improving opportunities for all parties, and particularly Tribal Nations, to ensure consideration of effects on historic properties. Improved processes will also help advance modern communications infrastructure for public safety communications and for business, government, and personal communications.

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The four contemplated initiatives are as follows:

- Positive Train Control (PTC). AMTRAK and the Nation's commuter and freight railroads must, by federal statute, install life-saving, interoperable positive train control systems no later than December 31, 2015. To meet this imminent mandate, the railroads are preparing to install more than 20,000 communications poles in railroad rights-of-way across the Nation. Nearly all of these poles are expected to be 65 feet or less in height, including the antenna, and constructed within the previously disturbed rail bed. Facilitating Section 106 review for this program is an immediate priority for the FCC.
- Distributed Antenna Systems (DAS) and small cells. Communications providers are increasingly using systems of small, low-mounted antennas in order to meet growing capacity needs. In coordination with the ACHP, we are considering a program alternative to tailor the review of these projects. The Infrastructure Team is also preparing a Notice of Proposed Rulemaking for the Commission's consideration that would gather comment on potential alternatives in this area.
- Non-compliant towers. Over the years, many communications towers have been built without properly completing Section 106 review. We are considering alternatives to facilitate the availability of these towers for collocations while addressing the likely limited number of cases in which these towers adversely affect historic properties. This matter was identified as a top Tribal consultation priority in ONAP's 2012 Annual Report to the FCC.
- Use of TCNS by other federal agencies. Several federal agencies have expressed an interest in adapting TCNS for their own undertakings, including but not limited to communications projects on federal lands. In the interagency working group coordination to implement President Obama's Executive Order 13616, "Accelerating Broadband Infrastructure Deployment" (June 2012), the Executive Office of the President has asked the FCC to explore opportunities in this area.

As noted above, our immediate priority in the Section 106 area is PTC. In order to meet the statutory deadline, the railroads have indicated that they need to begin widespread construction no later than Spring 2014. Given the unprecedented number of poles that will be required in the rights-of-way, we believe it is imperative to craft an efficient process that is tailored to the program's potential effects. We have enclosed a fact sheet that provides a more complete description of PTC. Within the next few weeks, we anticipate sending to Tribal Nations a detailed scoping document to begin a focused discussion of solutions. We expect this document will include ideas both for immediate efficiencies within the FCC's existing process and for a programmatic alternative that will enable a more comprehensive solution.

Please do not hesitate to contact us on these important Section 106 matters. You may also contact directly Infrastructure Team members Steve DelSordo ([stephen.delsordo@fcc.gov](mailto:stephen.delsordo@fcc.gov) or 202-418-1986) or Anne Marie Wypijewski ([annemarie.wypijewski@fcc.gov](mailto:annemarie.wypijewski@fcc.gov) or 717-338-2508) as soon as possible if you have any suggestions, comments, or concerns. In the coming weeks, we will schedule and invite your participation in dialogue sessions on these important issues. We recognize that, in your capacity, you have unique knowledge of Tribal ancestral territories and areas to which your Tribal Nation attaches religious and cultural significance, as well as your process needs. We value your opinion and seek your assistance in these important matters.

Sincerely,

Jeffrey S. Steinberg, Deputy Chief  
Spectrum & Competition Policy Division  
Wireless Telecommunications Bureau

Geoffrey C. Blackwell, Chief  
Office of Native Affairs & Policy  
Consumer & Governmental Affairs Bureau

Attachment: Positive Train Control Fact Sheet for Tribal Nations (dated June 25, 2013)  
Photo Sheet with Sample PTC Configurations

**Positive Train Control  
Fact Sheet for Tribal Nations  
June 25, 2013**

**Background.** Under the Rail Safety Improvement Act of 2008, all of the Nation's major freight and passenger railroads are required to deploy positive train control (PTC) systems along their entire track by December 31, 2015. Congress enacted the PTC requirement following an accident in Chatsworth, California, that resulted in 25 deaths and injuries to more than 135 passengers. Utilizing radio signals between the train and a land-based network, the PTC system is capable of remotely controlling or stopping a train that is approaching danger. Thus, PTC prevents accidents and promotes public safety and national security. Under the PTC mandate, every train must be in communication with the PTC network at intervals of no longer than 14 seconds.

**FCC involvement.** PTC radio transmissions operate over spectrum that is licensed by the FCC. Therefore, the FCC considers the erection of PTC facilities to be an FCC undertaking under the National Historic Preservation Act.

**Wayside poles.** In most of the country, provision of PTC will require the railroads to erect wayside poles along the railroad right of way. Nationwide, more than 20,000 of these poles will be required to cover all of the track that is subject to the statute. The poles will be spaced one to two miles apart and at strategic locations. The poles will typically be 20 to 65 feet in height, including the antenna, and 12 to 15 inches in diameter. Additional equipment will either be mounted on the pole or kept in a small cabinet at the base of the pole. Illustrations of typical wayside pole installations are attached.

**Excavation.** The wayside poles will be installed in holes typically 5 to 10 feet in depth, although they may be up to 15 feet deep in unusual situations. The depth of foundation for each pole will depend on the pole's height, soil conditions, and local safety regulations. The holes will be bored by a mechanical arm extending from equipment traveling on the railroad or an existing access road. Thus, installation will require no ground disturbance other than the foundation hole. Virtually all of the poles will be placed in the ballasted roadbed of the railway, on ground that has been thoroughly disturbed by railroad construction and ongoing maintenance. However, the depth of the foundation hole may exceed the depth of the previous disturbance.

**Base stations.** In addition to the wayside poles, the railroads will need to install between 3000 and 4000 antennas, typically at heights of 100 to 150 feet, to serve as base stations. These base stations may be located farther away from the track. While some of the base station antennas will require new tower construction, the railroads have projected that approximately 90% of them will be collocated on existing structures.

**Deployment plans.** The railroads have determined proposed sites for most of their PTC facilities, although different railroads are at different stages of planning. Due to the system's technological

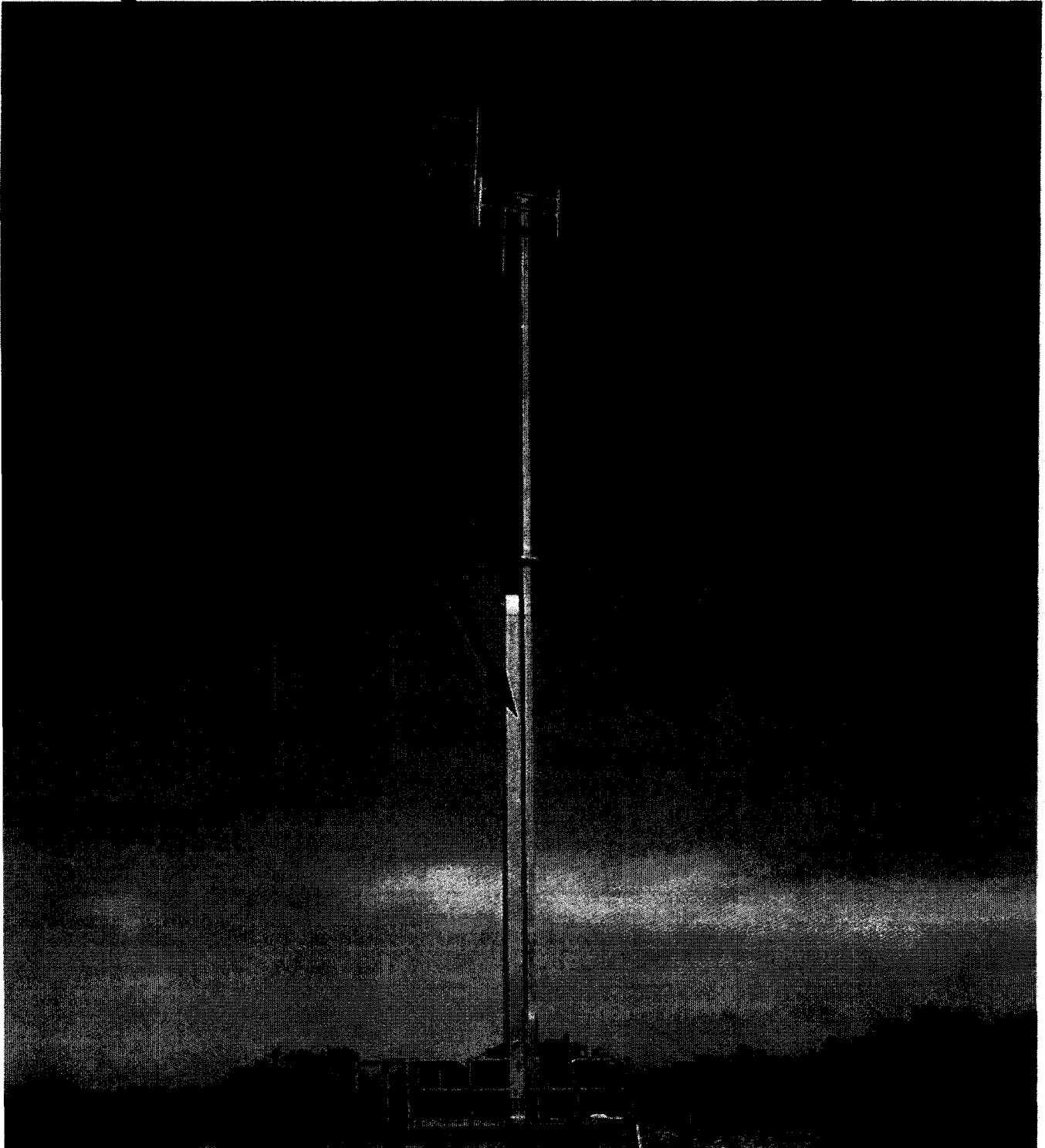
requirements, there is typically little flexibility in these locations. In order to test the technology, some railroads have already deployed facilities along limited portions of their track, typically in urban areas. At least one railroad has not yet deployed these test facilities, and has stated that it needs to do so in 2013. Because of the massive number of facilities required, the railroads must begin general deployment in Spring 2014 to meet the statutory deadline. Due to weather conditions in most of the country, as well as the heavy use of rail lines to transport crops during the harvest season, most construction must occur during the Spring and Summer months.

*Security.* The railroads have indicated that some PTC location data is considered Sensitive Security Information (SSI) under federal statute and Department of Transportation regulations. We are working with the Federal Railroad Administration to define what information is SSI and how that information may be used and disseminated.

## **TYPICAL CONFIGURATION OF PTC FACILITIES**

**60 foot, tilt/fold-over monopole in ROW  
next to side of track; excavation limited to  
installation of footing**

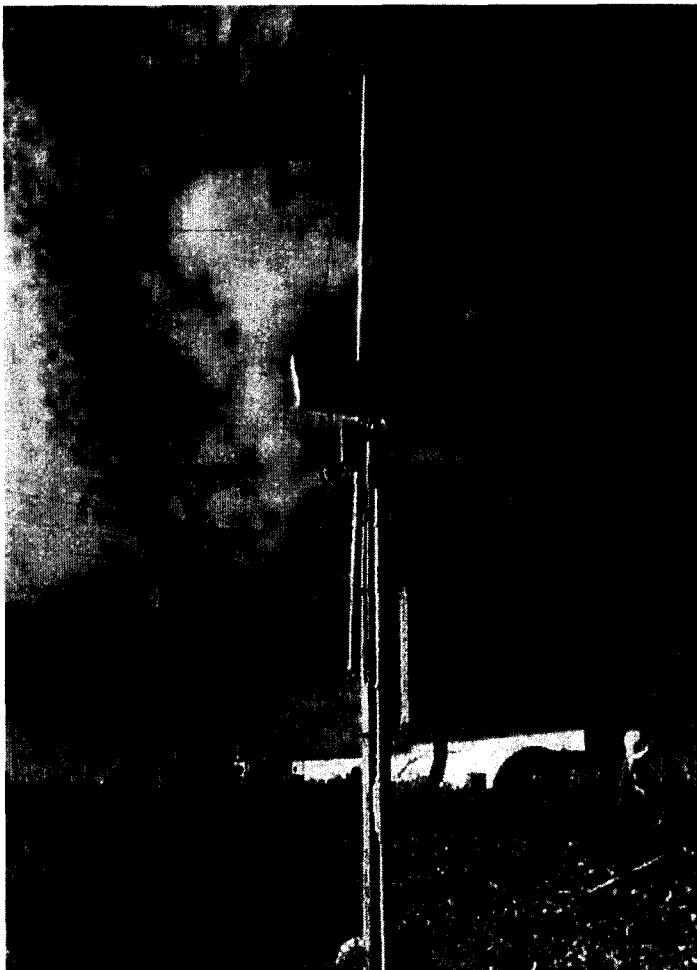
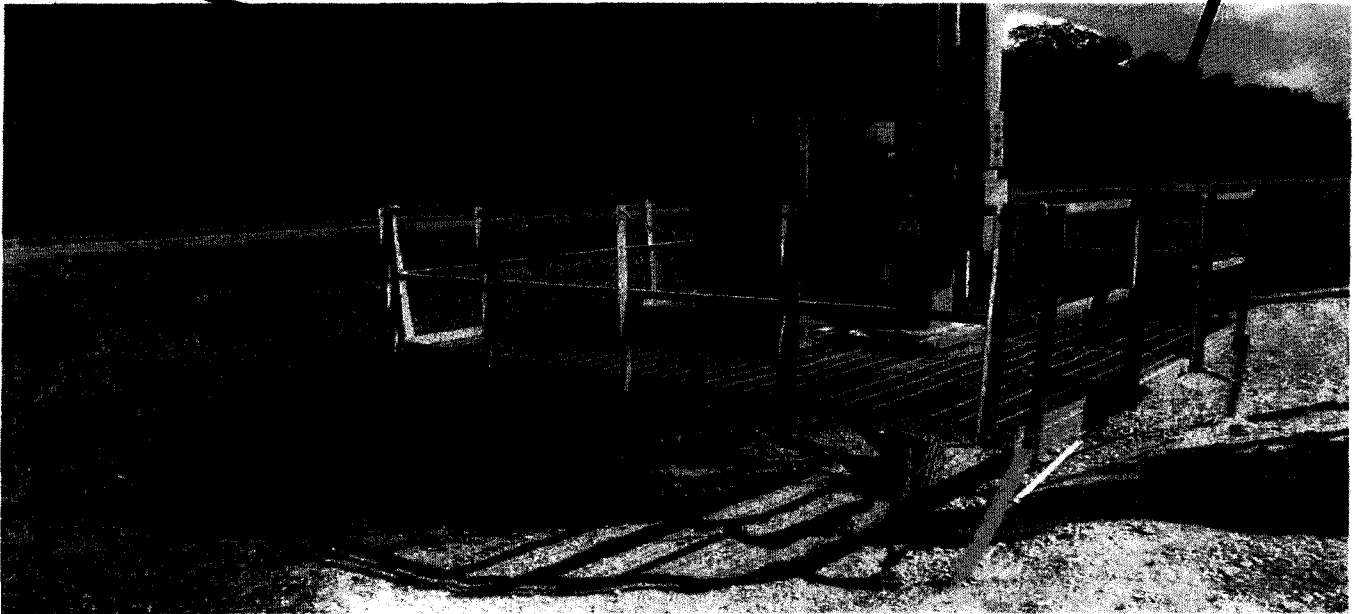
**PTC antenna side-mounted at  
height to tip not greater than  
65 feet AGL**



## TYPICAL CONFIGURATIONS OF PTC FACILITIES

Shelter to house radio equipment and related components

8ft. x 8 ft. platform braced onto monopole without further excavation



Solar panel (used at remote sites)

Equipment box side mounted on pole